IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Crl.Rev.Pet.No. 393 of 2000()

CRA.102/1998 of SESSIONS COURT, THRISSUR
ST.768/1995 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KUNNAMKULAM

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REVN. PETITIONER/APPELLANT/ACCUSED:

UNNIKRISHNAN,S/O.PATTANATH BALAKRISHNAN,
PATTANATH HOUSE, MUTHUVATTOOR VILLAGE,
PUTHENPALLI DESOM.

BY ADV. SRI.T.N.MANOJ
SRI.DINESH R. SHENOY

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY, J.

Criminal R.P.No.393 OF 2000 (A)

Dated this the 26th day of September, 2007

O R D E R

Accused was charge sheeted for the offences punishable under Sections 279, 337 and 338 of the Indian Penal Code. Allegation of the prosecution was that on 18.10.1994, at 10 p.m. accused drove a bus bearing No.KBR.2176 in a rash and negligent manner so as to endanger human life through Thrissur - Kunnamkulam public road from South to North and when the bus reached near Thellana thazhampadam, it hit on the back of lorry bearing No.KCE.5479 which was parked on the western side of the road. As a result of the incident, CW1 sustained fracture on his jaw. The wife of CW1 and his son sustained fracture on the left leg. CW2 sustained fracture on his spinal cord and CW3 sustained grievous injury on her head. There is no dispute that the accident occurred when the bus hit on the back of the lorry and the passengers were injured. Even according to the prosecution case, it was stated that lorry was

parked on the western side of the road and road is having a width of 7.20 metres only. The lorry was parked in the public road. The incident occurred at 10 p.m. It is also come out in evidence that there was drizzling and it is the case of the petitioner that due to drizzling and due to parking of the lorry without giving any way to the bus, the incident occurred. But the evidence of PW1 who was travelling in the bus as well as PW2 was that the accident occurred due to the rash and negligent driving of the driver of the bus. However, PW3 who was travelling in the bus supported the accused and he was declared hostile. PW4 the lorry driver deposed that his lorry was parked on the side of the road and the bus hit on the back of the lorry. So the parking of the lorry in the road side was admitted. Injury to the passengers are also admitted. When there is drizzling, petitioner ought have been more cautious. The trial court found that the accident could have been avoided if petitioner was not in a rash and negligent manner of driving and he was unable to apply the brake because the rash and negligent driving when he saw the lorry. The findings of the trial court was accepted by the appellate court also and

findings are not perverse so as to interfere any revisional proceedings regarding conviction. But considering the nature of offence like parking of the lorry in the road without sufficient parking line, I am of the view that sentence can be reduced. Accordingly sentence of imprisonment is set aside. But he is sentenced to undergo a fine of Rs.1,000/- under Section 279, Rs.500/- under Section 337 and Rs.1000/- under section 338 of the I.P.C. If the fine amount is not realised, he shall undergo simple imprisonment for one month each for three separate offence. Revision petition is disposed of confirming the conviction but altering the sentence.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.R.P.393 OF 2000

O R D E R

26th September, 2007